

STATE OF NEW HAMPSHIRE

PROBATE COURT

PROCEDURE BULLETIN 20

RELATIVE TO: DRA Information, Determining Liability

This procedure bulletin is prepared for informational purposes in processing case files. It is not intended to provide parties with legal advice.

The following procedure will be used by all probate courts for exchanging information with the DRA and processing taxable cases.

For Deaths Occurring On or After January 1, 2005:

The Department of Revenue Administration (DRA) will **NOT** need copies of any wills, petitions or notices for any deaths occurring on or after January 1, 2005.

For Deaths Occurring On or After January 1, 2003 BUT BEFORE January 1, 2005:

For deaths occurring on or after January 1, 2003 but before January 1, 2005, RSA 87:22 specified the probate court's obligation to provide documents to the DRA. The following procedure will be used by all probate courts for exchanging information with DRA.

1. Probate staff will send a copy of every will, including wills filed not probated, to DRA. The information may be accumulated and mailed on a weekly basis.
2. Probate staff will enter DRA as a party in all estates and all testamentary trusts.
 - a. The mail status will be entered as INACTIVE.
 - b. The party designation will result in the issuance of the defaults (as required by RSA 87:21) as long as DRA is not in WITHDRAWN status.
 - c. DRA is NOT a party for Rule 21 certification purposes.
3. Probate staff will send a copy of every default issued by the court for the failure of any executor, administrator, and testamentary trustee to file an inventory with the Court to DRA.
4. If DRA has an interest in a particular case, it will file an appearance. The party screen should be changed to add a notation in the first address line that reads, "Appearance on file." The person code must be removed in order for the system to accept the new language. Additionally, the mail status must be changed to ACTIVE so DRA will receive all appropriate notices.
5. When auditing the final account or motion for summary administration of an executor, administrator, or testamentary trustee, probate staff will confirm the existence of either (1)

a certificate from DRA verifying receipt of payment or (2) a letter of no tax due. All cases will be processed in accordance with RSA 87:25 and RSA 87:27.

6. For "Wills Filed not Probated" cases, the case may still be entered and closed immediately.

For Deaths Occurring BEFORE January 1, 2003:

1. When any estate case is received by the court, probate staff will not make any determination as to whether a case is taxable, or mark the case in any way as to its taxable status.
2. Will Copies:
 - a. Probate staff will send a copy of the will (when applicable), the petition and appropriate 101s to DRA for all estates filed (full administration, waiver of administration and voluntary administrations). Information may be accumulated and mailed on a weekly basis.
 - b. Probate staff will not send DRA a copy of the will for "Wills Filed not Probated" cases. DRA will independently research those cases at each court.
3. DRA will review the information and determine whether the estate is taxable.
4. DRA will send a list of all taxable estates to each probate court on a weekly basis. The list will contain the docket number and estate name.
5. The court will then enter DRA as a party on the taxable estates listed to indicate its interest in those cases.
 - a. It is recommended that the mail status be entered as INACTIVE.
 - b. The party designation will also result in the issuance of the defaults (as required by RSA 86:24, ♦) and citations, as long as DRA is not in WITHDRAWN status.
 - c. At this point, DRA is NOT a party for Rule 21 certification purposes.
6. In those cases in which DRA files an appearance:
 - a. If DRA is already listed as a party as the taxable status indicator, the party screen should be changed to add a notation in the first address line that reads, "Appearance on file." The person code must be removed in order for the system to accept the new language. Additionally, the mail status must be changed to ACTIVE so DRA will receive all appropriate notices.
 - b. If DRA is not already listed as a party, the courts should add them as a party with a notation in the first address line that reads, "Appearance on file." The person code

must be removed in order for the system to accept the new language. The mail status should be entered as ACTIVE.

7. Whenever an inventory in an estate is received, the front page will be copied and sent to DRA in the weekly mailing. The inventory does not have to have been processed or signed by the judge. Copies can be made immediately when received. (DRA often determines an estate's tax liability from the inventory form. Having the bond information will also eliminate some phone calls from DRA to the courts. Although RSA 86:21[♦] requires the fiduciary to send DRA this copy, compliance is very low, resulting in additional delays.)
8. Whenever a common-law spouse petition is received, staff will confirm that a copy of the petition has been sent to DRA.
9. During the course of the case, DRA may determine that the tax status has changed. DRA will notify the courts of any changes. When a case changes from taxable to not taxable, the DRA party screen should be marked WITHDRAWN.
10. When preparing to close a case and to determine its tax status, probate staff will check to see if DRA is listed as a party.
11. DRA will send a certificate of payment to the courts when all taxes have been paid or a letter of no tax due. Cases will be closed in accordance with RSA 86:31[♦].
12. For "Wills Filed not Probated" cases, the case may still be entered and closed immediately.

Last Reviewed: August 1, 2007

_____/s/ David D. King
David D. King
Administrative Judge of Probate Court

History:

Revised August 1, 2007 (combined content with former Procedure Bulletin 20-A)
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♦ Note that RSA ch. 86 was repealed in 2002 for deaths occurring on or after January 1, 2003. However, this law is still applicable to deaths occurring before January 1, 2003.